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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,401	01/18/2002	Robert Wayne Glenn JR.	8401	9592

27752 7590 07/21/2004

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EXAMINER

CHANNAVAJJALA, LAKSHMI SARADA

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/051,401	GLENN ET AL.
	Examiner	Art Unit
	Lakshmi S Channavajjala	1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 1-14-04.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-30 is/are pending in the application.  
 4a) Of the above claim(s) 12-30 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-11 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Status of Claims***

Applicants stated in the remarks section of response (dated 1-14-04) that claims 1-11 are pending. Instant application presented claims 1-30, of which claims 12-30 are withdrawn as being non-elected. Claims 1-11 were examined.

### ***Response to Arguments***

#### ***Terminal Disclaimer***

The terminal disclaimer filed on 1-14-04 has been reviewed and is accepted and accordingly, the double patenting rejection of record has been withdrawn.

Applicant's arguments filed 1-14-04 have been fully considered but they are not persuasive.

### ***Claim Rejections - 35 USC § 102***

Claims 1 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,965,113 to Guskey.

Applicants argue that Guskey does not disclose an anhydrous composition comprising a reactive agent nor mention the use of the reactive agent, which applicant defined as a reactive group or hook and a monovalent or multivalent cosmetically active functional group that imparts visual or tactile or other benefits. However, applicants' arguments are not persuasive because while the reactive agent claimed has been defined as argued, instant claims do not recite any such definition. While claim limitations are read in light of specification, the limitations of claim cannot be read into the claim. Accordingly, the term "reactive agent" is given a broadest reasonable interpretation. Examples in Table 2 (of Guskey) disclose sucrose polyester that meets

the instant electrophilic reactive agent, and glycerin or dipropylene glycol read on the claimed solvent. Therefore Guskey anticipates instant claims.

The following is a new rejection:

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

In the instant application, claim 10 is presented two times. The claim, immediately following claim 10, has been considered for examination. However, claim 10, presented immediately before claim 11 has not been considered for examination.

2 Claims 1-4, 9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6,013,248 to Luebbe et al.

Luebbe discloses anhydrous deodorant compositions comprising triclosan, sodium stearate, hexanediol, propylene glycol monoisostearate, glycerin etc (see table 3). The amount of hexane diol and glycerin add up to more than 25%, as claim 11. Further, triclosan of table 3 read on the claimed reactive group and perfume of the examples read on a functionally active cosmetic. The solubility of claim 9 is inherent to the solvents of Luebbe because the solvents disclosed are the same as claimed.

3. Claims 1-5 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,135,741 to Park.

Park discloses an antiperspirant product comprising urea (that reads on the electrophilic reactive agent) and ethanol that meets the claimed solvent. Park also discloses poloxamer, and other compounds that read on surfactants of claim 11. Park discloses that the only water-containing product Q is less effective than other compositions that do not contain water. Therfore, Park anticipates instant claims.

4. Claims 1-4, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,826,681 to Jacquet et al (Jacquet).

Jacquet discloses an anhydrous composition containing hydrogen peroxide and an organic solvent for permanent waving of hair and as a cosmetic or therapeutic composition 9col. 1, lines 47-60). Jacquet discloses the solvents such as alcohols, lactams, esters, polyols, polyether etc (col. 1-2), all of which are claimed in the instant application. Examples in col. 7 list compounds such as oxyquinolein sulfate, salicylic acid, phenacetic etc., which read on the claimed reactive agent.

#### *Claim Rejections - 35 USC § 103*

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacquet in view of EP 437099 to Halloran (submitted onPTO-1449).

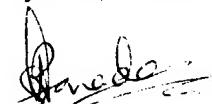
Jacquet teaches a composition containing hydrogen peroxide and a miscible solvent for providing hair bleaching and permanent waving of hair. Jacquet fails to teach the reactive agents of instant claims.

Halloran teaches compositions for conditioning and perming of hair comprising thioglycolamide functional siloxanes. Halloran teaches that R<sup>111</sup>-S-H represents the thioglycolamide functional siloxane, where R is an amide-functional siloxane is incorporated into the hair structure during the process of reduction. It is further theorized that this incorporation of the siloxane into the hair is the means for imparting same conditioning effect to the hair. The thioglycolic compounds of Halloran meet the requirement of reactive agents of claims 6-8. Accordingly, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to add the thioglycolamide siloxanes of Halloran to the composition of Jacquet because Halloran suggests that the thioglycolamide functional siloxanes are useful in the reduction of hair while simultaneously imparting some conditioning effects and imparted improved setability of the treated hair as well as the above mentioned conditioning effects.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 7.30 AM -4.00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lakshmi S Channavajjala  
Examiner  
Art Unit 1615  
July 16, 2004